

**19961. Adulteration and misbranding of canned tomato catsup. U. S. v. 9% Cases of Canned Tomato Catsup. Decree ordering release of product for relabeling. (F. & D. No. 28237. I. S. No. 54360. S. No. 6111.)**

This action involved the interstate shipment of a quantity of canned tomato catsup, samples of which were found to contain added gum.

On April 23, 1932, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of nine and one-sixth cases of canned tomato catsup at New York City, N.Y., alleging that the article had been shipped in interstate commerce on or about April 8, 1932, by Alfred Lowry & Bro., from Philadelphia, Pa., to New York, N.Y., and charging adulteration and misbranding in violation of the food and drugs act. The article was labeled in part: (Cans) "Kiltie Brand Tomato Catsup Contains  $\frac{1}{10}$  of 1% Benzoate of Soda \* \* \* Distributors Alfred Lowry & Bro., Philadelphia, Pa."

It was alleged in the libel that the article was adulterated in that a substance, tomato catsup containing added gum, had been substituted in whole or in part for the article.

Misbranding of the article was alleged for the reason that the statement "Tomato Catsup" was false and misleading and deceived and misled the purchaser, when applied to an article containing added gum. Misbranding was alleged for the further reason that the product was offered for sale under the distinctive name of another article.

On June 21, 1932, no formal appearance or claim having been entered, upon the filing of an affidavit by the United States attorney showing that the goods were the property of a United States agency, the court ordered that the product be relabeled under the supervision of this department to show the presence of added gum, and released to the owner.

HENRY A. WALLACE, *Secretary of Agriculture.*

**19962. Adulteration of alimentary pastes. U. S. v. 29 Cases of Alimentary Pastes. Default decree of destruction entered. (F. & D. No. 28295. I. S. No. 32275. S. No. 6165.)**

This action involved the shipment of a quantity of alimentary pastes that were found to be artificially colored with a yellow color simulating egg, but with no egg present.

On May 10, 1932, the United States attorney for the District of Utah, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 29 cases of alimentary pastes, remaining in the original and unbroken packages at Salt Lake City, Utah, alleging that the article had been shipped in interstate commerce on or about February 11, 1932, by Gragnano Products, (Inc.) from San Francisco, Calif., to Salt Lake City, Utah, and charging adulteration in violation of the food and drugs act. The article was labeled in part: (Packages) "Manufactured by Gragnano Products, Inc., San Francisco, California. Semolina Spaghetti [or "Macaroni" or "Seashells"]".

It was alleged in the libel that the article was adulterated in that it was colored in a manner whereby inferiority was concealed.

On July 1, 1932, no claimant having appeared for the property, a decree was entered adjudging the product to be adulterated, and ordering that it be destroyed by the United States marshal.

HENRY A. WALLACE, *Secretary of Agriculture.*

**19963. Adulteration and misbranding of canned tomato paste. U. S. v. Bruno Bisceglia (Bisceglia Bros.). Plea of guilty. Fine, \$20. (F. & D. No. 28080. I. S. Nos. 28427, 30538.)**

This action involved the interstate shipment of quantities of canned tomato paste, samples of which were found to contain undeclared artificial color.

On July 2, 1932, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid an information against Bruno Bisceglia, a member of a copartnership trading as Bisceglia Bros., San Francisco, Calif., alleging shipment by said defendant, in part on or about November 4, 1930, and in part on or about April 21, 1931, in violation of the food and drugs act, from the State of California into the State of Massachusetts, of quantities of canned tomato paste that was adulterated and misbranded. A portion of the article was labeled in part: (Cans) "Carmen

Brand Salsa Di Pomodoro Concentrato \* \* \* Packed for C. Carbone, Somerville, Mass. Italian Style Tomato Paste." The remainder was labeled in part: (Cans) "Pastene Brand Tomato Paste \* \* \* Packed for Pastene Products Co. \* \* \* Boston."

It was alleged in the information that the article was adulterated in that an artificially colored product had been substituted for tomato paste, which the article purported to be.

Misbranding of the article was alleged for the reason that the statements, "Tomato Paste" and "Salsa Di Pomodoro Concentrato," with respect to a portion of the article, and the statements, "Tomato Paste" and "Salsa" with respect to the remainder, together with the design of red ripe tomatoes, appearing on the labels, were false and misleading; and for the further reason that the article was labeled as aforesaid so as to deceive and mislead the purchaser, since the said statements and design represented that the article was composed wholly of tomatoes, whereas it consisted in part of an undeclared added artificial color. Misbranding was alleged for the further reason that the article was offered for sale and was sold under the distinctive name of another article, "Tomato Paste."

On July 25, 1932, the defendant, Bruno Bisceglia, entered a plea of guilty to the information, and the court imposed a fine of \$20.

HENRY A. WALLACE, *Secretary of Agriculture.*

**19964. Adulteration of butter. U. S. v. 12 Cubes of Butter. Product released under bond for reworking. (No. 983-A. F. & D. No. 28472.)**

This action involved the shipment of a quantity of butter, samples of which were found to contain less than 80 per cent by weight of milk fat, the standard for butter prescribed by Congress.

On June 30, 1932, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 12 cubes of butter, remaining in the original unbroken packages at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce on or about June 25, 1932, by the Beaver Valley Creamery Co., from Milford, Utah, to Los Angeles, Calif., and charging adulteration in violation of the food and drugs act. The article was labeled in part: (Case) "Beaver Valley Creamery, Beaver, Utah."

It was alleged in the libel that the article was adulterated in that a product containing less than 80 per cent of milk fat had been substituted wholly or in part for butter.

On July 1, 1932, Joseph Thorup, Los Angeles, Calif., having entered an appearance and claim, praying release of the property, and having furnished a cash bond in the sum of \$100, conditioned that the product should not be sold or otherwise disposed of contrary to the provisions of the Federal food and drugs act and all other laws, the court approved the bond and ordered the product released. On July 5, 1932, the product having been reworked to the satisfaction of this department, the release was made permanent and it was ordered by the court that bond be exonerated upon payment of all costs of the proceedings.

HENRY A. WALLACE, *Secretary of Agriculture.*

**19965. Adulteration of butter. U. S. v. 29 Cubes of Butter. Consent decree of condemnation and forfeiture. Product released under bond. (No. 1899-A. F. & D. No. 28397.)**

This action involved the shipment of a quantity of butter, samples of which were found to contain less than 80 per cent by weight of milk fat, the standard for butter prescribed by Congress.

On May 27, 1932, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 29 cubes of butter, remaining in the original unbroken packages at Seattle, Wash., alleging that the article had been shipped in interstate commerce on or about May 24, 1932, by Farmers Cooperative Creamery, from Sandpoint, Idaho, to Seattle, Wash., and charging adulteration in violation of the food and drugs act.

It was alleged in the libel that the article was adulterated in that a product containing less than 80 per cent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 per cent of milk fat as provided by the act of March 4, 1923.